

ROBERT J DENORIS,
Plaintiff,

v

JO ANNE B BARNHART,
Commissioner of Social Security,

Defendant.

No C-04-1659 VRW

ORDER

According to plaintiff's moving papers, he has since obtained a fully favorable decision from the Social Security Administration and received a gross total of \$89,916 in retroactive benefits. That amount is subject to a twenty-five percent contingent fee agreement with his counsel, of which he submits documentation. Plaintiff requests that the court issue an order

1 approving an award to his counsel of the contingent fee offset by
2 the fee amount already recovered under the EAJA. This fee is
3 properly computed as follows:

4 Contingent fee: \$17,179.00

5 EAJA fee award: \$ 6,500.87

6 Difference: \$10,678.13

7 Defendant Jo Anne B Barnhart responds that she "does not
8 materially object to Petitioner's request for attorney fees under
9 * * * § 406(b) for the net amount of \$10,678.13." Doc # 27 at 2.

10 The requested fee amounts to an hourly rate of \$503 for
11 petitioner. Petitioner submits a declaration stating that he has
12 more than twenty-nine years of experience, most of it as a social
13 security specialist. He posits that his (presumably hypothetical)
14 non-contingent billing rate would be \$475. Ptr's memo (Doc # 26)
15 at 13. In a fee request filed a few days later in a different
16 case, however, petitioner declared his non-contingent billing rate
17 to be \$450; Sanchez v Barnhart, C 03-4581 VRW, Doc # 33.

18 In Gisbrecht v Barnhart, 535 US 789 (2002), the United
19 States Supreme Court upheld the use of contingent fee agreements
20 between social security claimants and their attorneys, with the
21 limitation that district courts have the power to review fee
22 agreements and interpose an independent check to assure "reasonable
23 results in particular cases." Id at 807.

24 It is the practice of the undersigned judge to rely on
25 official data to determine appropriate hourly rates, not on an
26 attorney's self-proclaimed rates or declarations regarding hourly
27 rates charged by law firms. One reliable official source for rates
28 that vary by experience levels is the Laffey matrix used in the

District of Columbia. See http://www.usdoj.gov/usao/dc/Divisions/Civil_Division/Laffey_Matrix_5.html (citing Laffey v Northwest Airlines, Inc, 572 F Supp 354 (D DC 1983), aff'd in part, rev'd in part on other grounds, 746 F2d 4 (DC Cir 1984), cert denied, 472 US 1021 (1985)) (website consulted January 22, 2007).

See, e g, In re HPL Technologies, Inc Securities Litigation, 366 F Supp 2d 912, 921 (ND Cal 2005) (Laffey matrix used to determine fee rates where senior attorney devoted much time to settlement discussions and preparation). Under the 2006 Laffey matrix, attorneys with 20 or more years of experience bill \$405/hour. These rates are tailored to the District of Columbia. Petitioner in this matter is based in San Jose. It is this court's practice to adjust fees drawn from the Laffey matrix in accordance with the locality pay differentials applicable to the federal judiciary, an agency that employs legal professionals throughout the United States. See <http://www.opm.gov/oca/07tables/indexGS.asp>. The Washington-Baltimore area is subject to a +18.59% locality pay differential, whereas the Los Angeles-Long Beach-Riverside area is subject to a 30.53% locality pay differential. The discrepancy between these two percentages - 9.9%¹ - amounts to the upward adjustment from the Laffey rates to which petitioner is entitled.

The court thus concludes that \$445 per hour constitutes a reasonable fee for petitioner's time. Given the risk of loss petitioner assumed in undertaking the representation, the slightly higher hourly rate represented by the \$17,179 contractual fee is reasonable for the services rendered and the result obtained.

¹ (130.33 - 118.59)/118.59 = 0.09899, or about 9.9%

1 The motion for attorney fees is GRANTED. Petitioner shall
2 collect \$10,678.13 in accordance with 42 USC § 406(b)(1)(A).

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4 IT IS SO ORDERED.

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8 VAUGHN R WALKER
9 United States District Chief Judge
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